

US Serial No. 10/578282  
Page 7 of 10

Remarks:

*Regarding the election/restriction requirement:*

the applicant respect which reverses the Examiner's continued requirement for election/restriction in the present application.

In this response, all of the prior claims have been canceled, thus rendering the Examiner's requirement for election/restriction as moot. Accordingly, withdrawal of the requirement for election/restriction is respectfully requested.

*Regarding the priority claims to GB 0326053.6, filed 07.Nov.2003:*

As the Examiner properly notes, the instant application was filed as a 35 USC 371 application of PCT/GB2004/004692, which in turn claimed priority to GB 0326053.6. The applicant believes that the Examiner's requirement is improper and should be withdrawn as a review of the on-line records of the PCT/IB database at "wipo.int" indicates that (a) a certified copy of GB 0326053.6 was filed on 07.Dec.2004 at the PCT - International Bureau and (b) was entered into the PCT file wrapper on 26.May.2005. As an enclosure to this paper, a printout of (a) and (b) are enclosed. As the certified copy of the GB priority document was timely filed with the PCT - International Bureau, such forms the file of the present US patent application filed under 35 USC 371. Thus the priority claim in the present US patent application should be acknowledged and the Examiner's requirement for a further certified copy of GB 0326053.6 be withdrawn.

*Regarding the rejection of claim 4 under 35 USC 103(a) in view of EP 0792581 A1 to Ishiwatari et al (hereinafter simply "Ishiwatari"), in view of US 2001/0049390 to Sembo, et al. (hereinafter simply "Sembo"), as evidenced by US 5629334 to Takada (hereinafter simply "Takada"):*

US Serial No. 10/578282  
Page 8 of 10

in the present paper, all of the prior claims have been canceled, thus rendering the Examiner's rejection of claim for as moot in view of the combined Ishiwatari, Sembo and Takada references. Accordingly, withdrawal of the rejection is respectfully requested.

*Regarding the rejection of claim 5 under 35 USC 103(a) in view of EP 0792581 A1 to Ishiwatari et al (hereinafter simply "Ishiwatari"), in view of US 2001/0049390 to Sembo, et al. (hereinafter simply "Sembo"), as evidenced by US 2003/0198659 to Hoffmann, et al. (hereinafter simply "Hoffmann"):*

in the present paper, all of the prior claims have been canceled, thus rendering the Examiner's rejection of claim for as moot in view of the combined Ishiwatari, Sembo and Hoffmann references. Accordingly, withdrawal of the rejection is respectfully requested.

*Regarding the provisional, nonstatutory obviousness-type double patenting rejection of the claims in view of copending application US Serial No.: 10/577910 in view of EP 0792581, to Ishiwatari et al.:*

Applicants respectfully retain their traversal of the Examiner's "double patenting" rejection of the foregoing claims in view of copending U.S. Application No. 10/577910 which is commonly assigned with the present application, in view of Ishiwatari. Applicants point out that still, to date, no claims in the instant application or the copending 10/577910 application have been allowed by the Office. As such it is thus believed that the Examiner's issuance of a "double patenting" rejection is improper as being premature and for that reason the applicants maintain their traversal of the Examiner's instant rejection. Applicants believe that entry of a Terminal Disclaimer at this point in time is premature, as the scope of allowable claims in the present application have not yet been established agreeing to the limitation of the term and scope of protection may be prejudicial to the interests of the applicant, e.g., wherein narrowed claims of the present application may be indicated as allowable and such claims might no longer give basis to a "double patenting" rejection. However, as previously stated, upon

US Serial No. 10/578282  
Page 9 of 10

RECEIVED  
CENTRAL FAX CENTER

JAN 13 2011

the indication of allowable subject matter the Examiner is invited to reinstate the instant rejection, if appropriate, at such later time.

Reconsideration of the propriety of the Examiner's rejections, particularly in view of the amended claims presented in this paper, and in further view of the foregoing remarks, is requested.

Subsequent and early issuance of a *Notice of Allowability* is solicited.

Should the Examiner believe that telephonic communication will advance the prosecution of the present application they are invited to telephone the undersigned at their convenience.

#### **PETITION FOR A ONE-MONTH EXTENSION OF TIME**

Applicants respectfully petition for a one-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

#### **CONDITIONAL AUTHORIZATION FOR FEES**

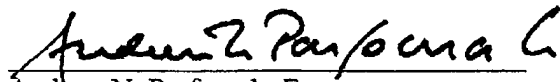
Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, including any extension of time fees, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

US Serial No. 10/578282  
Page 10 of 10

RECEIVED  
CENTRAL FAX CENTER

JAN 13 2011

Respectfully Submitted;



Andrew N. Parfomak, Esq.  
Reg.No. 32,431  
Norris, McLaughlin & Marcus, PC  
875 Third Avenue, 18<sup>th</sup> Floor  
New York, NY 10022

13. Jan. 2011

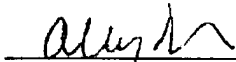
Date:

Tel: 212 808-0700

Enclosures – as indicated

CERTIFICATION OF TELEFAX TRANSMISSION:

I hereby certify that this paper and all attachments thereto is being telefax transmitted to the US Patent and Trademark Office to telefax number: 571 273-8300 on the date shown below:



Allyson Ross

1/13/11

Date:

C:\ANPCMB\102792\1070\Amendment01.doc